

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WAKEEN BROWN, :
 :
 Plaintiff, :
 :
 v. : 20-cv-6900 (JSR)
 :
 VIVANT SOLAR, INC., DAVID BYWATER, :
 DAVID F. D'ALESSANDRO, BRUCE :
 MCEVOY, JAY D. PAULEY, TODD R. :
 PEDERSEN, ELLEN S. SMITH, JOSEPH S. :
 TIBBETTS, JR., AND PETER F. :
 WALLACE, :
 Defendants. :
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HASSAN ALANAZI, :
 :
 Plaintiff, :
 :
 v. : 20-cv-6926 (JSR)
 :
 VIVANT SOLAR, INC., DAVID BYWATER, :
 DAVID F. D'ALESSANDRO, BRUCE :
 MCEVOY, JAY D. PAULEY, TODD R. :
 PEDERSEN, ELLEN S. SMITH, JOSEPH S. :
 TIBBETTS, JR., AND PETER F. :
 WALLACE, :
 Defendants. :
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HERBERT SILVERBERG, Individually :
and on Behalf of All Others      :
Similarly Situated,              :
                                  :
                Plaintiff,         :
                                  :
                v.                 :      20-cv-7051 (JSR)
                                  :
VIVANT SOLAR, INC., DAVID BYWATER, :
DAVID F. D'ALESSANDRO, BRUCE      :
MCEVOY, JAY D. PAULEY, TODD R.   :
PEDERSEN, ELLEN S. SMITH, JOSEPH S. :
TIBBETTS, JR., AND PETER F.      :
WALLACE,                          :
                Defendants.       :
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In re VIVANT SOLAR, INC.          :      20-cv-7051 (JSR)
SECURITIES LITIGATION            :
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ORDER

JED S. RAKOFF, U.S.D.J.

With the consent of all parties, as stated during an initial pretrial conference this morning (See Tr., Sept. 8, 2020), the three above-captioned actions are consolidated for all pretrial purposes. While the actions remain consolidated, parties shall file all filings on the docket of the first-filed class action, 20-cv-7051 (JSR), and should include the caption In re Vivant Solar, Inc. Securities Litigation. Parties may file papers on the other dockets only if they relate exclusively to one action, and even so, parties must also file a copy of each such filing on the primary docket, 20-cv-7051 (JSR).

As further stated during the conference, the Court adopts the following schedule:

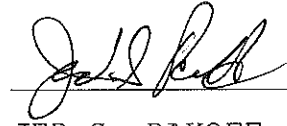
- By September 14, 2020, plaintiff's counsel in the Silverberg action will cause a notice to be published, pursuant to 15 U.S.C. § 78u-4, of the pendency of the action and of class members' eligibility to apply to serve as lead plaintiff.
- Any member of the putative class who seeks to serve as lead plaintiff must so move by November 13, 2020.
- If more than one person so moves, then the Court will hold a hearing on November 19, 2020, at 4pm by teleconference, using the same dial-in information used for today's conference. No later than 48 hours prior to this hearing, each applicant for lead plaintiff must submit, ex parte, the retainer agreement between herself and her counsel.
- Counsel for lead plaintiff may file a consolidated, amended complaint no later than November 30, 2020.
- Defendants may move to dismiss all actions by a single motion filed no later than December 18, 2020.

Plaintiffs may respond by January 8, 2021. Defendants may reply by January 15, 2021.

- The Court will hold oral argument on January 27, 2021 at 4pm. The parties should prepare for an in-person argument but should jointly call Chambers by January 20, 2021 to confirm this.

SO ORDERED.

Dated: New York, NY
September 8, 2020


JED S. RAKOFF, U.S.D.J.